

## Insurance and Real Estate Committee JOINT FAVORABLE REPORT

**Bill No.:** SB-355  
AN ACT ESTABLISHING THE 340B DRUG PRICING NONDISCRIMINATION  
**Title:** ACT.  
**Vote Date:** 3/22/2022  
**Vote Action:** Joint Favorable Substitute  
**PH Date:** 3/15/2022  
**File No.:** 354

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### SPONSORS OF BILL:

Insurance and Real Estate Committee

### REASONS FOR BILL:

In 2020, Connecticut's health centers experienced millions of dollars in revenue losses due in part to attacks on the 340B program. This law is necessary because, pharmacy benefits managers (PBMs) are able to divert 340B savings that would normally benefit health centers and the low-income uninsured and underinsured patients that they serve. PBMs have increasingly chosen to not participate in the 340B program in violation of federal law because it is more profitable for them to just pay the fine for noncompliance.

This bill will protect health centers by ending this discriminatory contracting. Often, third parties offer contracts with reimbursement for prescriptions filled with the 340B purchased drugs at a fraction of the reimbursement for the same prescription filled with non-340B purchased drugs. As a result of this practice, pharmacy benefits managers are able to divert 340B savings away from health centers and directly to the corporations that they work for. Discriminatory contracting limits the capacity of our state's health centers and hinders their ability to reduce health disparities.

### Proposed Substitute Language

This was redraft that restricts drug manufacturers and PBMs from discriminating against 340B covered entities. The raised bill was targeted only at PBMs and not drug manufacturers. The new language tracks a California bill in order to attempt to avoid legal challenges occurring in other states that have passed 340B related legislation. These changes will require manufacturers to honor 340B pricing that federal statute mandates.

## **RESPONSE FROM ADMINISTRATION/AGENCY:**

Connecticut Insurance Department states this proposed bill will have a very costly and inefficient impact. It establishes new contracting requirements between Pharmacy Benefit Managers and 340B covered entities and then requires the Insurance Commissioner to draft regulations to enforce such recommendations. This bill places additional requirements on the Connecticut Insurance Department by establishing with the Commissioner enforcement authority over the contracting of PBMs and 340B covered entities.

Ted Doolittle, Healthcare Advocate, Office of the Healthcare Advocate **supports** this legislation. The 340B program is an important source of economic relief for consumers who receive care at hospitals and covered entities which serve low-income communities. Pharmaceutical Benefits Managers should not be allowed to discriminate against covered entities merely for participating in this program, and contracts which discriminate in this way should not be enforced in Connecticut. He encourages the Legislature to allocate resources to assist the Department to meet any burden imposed on the department as a result of the legislation.

William Tong, Attorney General, State of Connecticut is **in favor** of the bill, as it would take several steps to strengthen the federal 340B drug discount program, as it operates in Connecticut. In addition to its efforts to address the discriminatory contracting practices of PBMs, he urges the committee to examine what might be done to address the reluctance of the drug manufacturers themselves to participate in the 304B program.

## **NATURE AND SOURCES OF SUPPORT:**

Jacqueline Blake, Yale New Haven Health **supports** the bill because covered entities rely on the benefits that the 340B program provide through prescription drug manufacturer discounts to help them stretch scarce resources, and care for more patients, and PBMs should not be allowed to create contracts that adversely impact and discriminate against covered entities.

Connecticut Hospital Association is in **support** of SB 355 as it makes clear that pharmacy benefit managers (PBMs) cannot pursue disparate contracting terms aimed at 340B covered entities. This disparate treatment has the result of evaporating the intended, Congressionally sanctioned financial benefit of the 340B program to covered entities and transferring the financial benefit to PBMs. This was certainly not the intent of Congress

Sara LeMaster, Manager of Government Relations and Public Policy, Community Health Center Association of Connecticut – states that this bill is important because it prohibits disparate treatment of 340B covered entities by pharmacy benefits managers, which protects health centers and other 340B covered entities. The attacks on the 340B program are not sustainable and if allowed to continue, will lead to further reductions in access to funds for our health centers, which will limit our ability to promote community health. Connecticut's health centers are excellent providers of community health and help to reduce our overall health care costs. By protecting the 340B program, we will also protect health centers and the important cost-saving services that they provide to the health care system.

By lowering how much they must pay for pharmaceuticals, the 340B program enables health centers to make drugs affordable for their low-income uninsured and underinsured patients

and support other key services that expand access to our medically vulnerable patients. The current restrictions that the pharmaceutical industry has placed on the 340 B program are shifting funding that would normally go to supporting our communities into the pockets of pharmacy benefits managers. The 340 B program is critical to health centers because as small, community-based organizations, health centers lack the market power to negotiate discounts off the sticker price of drugs. Prior to the 340 B program, most health centers were unable to offer affordable pharmaceuticals to their patients.

Laura Makin, MPH Candidate, Yale School of Public Health **supports** the bill, and notes that while it is an important attempt to help further the intent of the 340B program, future legislative actions should also consider the pick-pocketing actions from other third parties, such as insurance companies and contract pharmacies. This bill alone will not sufficiently protect safety net facilities from discriminatory actions from third parties, and additions to the bill to include other third parties should also be considered.

Arvind Shaw, CEO, Generations Family Health Center believes SB355 protects the 340B pharmacy program for hospitals and federally qualified health center and will preserve the safety net benefits to thousands of patients across Connecticut. Without access to 340B savings, the mission of Generations Family Health Center to provide affordable health care regardless of ability to pay is compromised. In the immediate term, there will be increased burden on our clinicians to switch patients from one drug to another and to monitor patients' responses, and an increase in health center's costs where the health center is covering pharmaceutical costs for uninsured patients. Patients would suffer poorer health outcomes without affordable access to life saving medications.

Jeffrey Steele, President & CEO, First Choice Health Centers is in favor of the act and asks that as you take action to protect the integrity of the 340B Drug Pricing Program, to include provisions that codify the contract pharmacy model. The 340B Program has benefited their patients, but threats to the integrity of the program have emerged, with the potential to significantly limit the value of it for the vulnerable patients it was intended to serve, and therefore asks you enact the legislation.

Nathan Tinker, CEO, Connecticut Pharmacists Association urges you to **support** SB 355 and to protect the ability of Connecticut's most vulnerable to access the drugs they need. PBMs have attempted to undercut this vital program through contracts that have lower reimbursement rates when drugs dispensed are purchased at the 340B price. In some cases, PBMs have gone further and excluded 340B covered entities' pharmacies from pharmacy networks entirely. The effect is that the cost savings enabled by the 340B program go to the PBMs and not to the safety net hospitals and other covered entities as originally intended.

Sue Veer, President & CEO, Carolina Health Centers asks that as you take action to protect the integrity of the 340B Drug Pricing Program, to include provisions that codify the contract pharmacy model.

Matthew Wallace, Director of Pharmacy Services, Connecticut Children's says the 340B Program is vitally important to our health system and allows us to fulfill our mission of providing care to all children, no matter their parent's income-level or their source of insurance coverage. He asks you to please support this legislation which will help protect already scarce federal dollars.

## **NATURE AND SOURCES OF OPPOSITION:**

Ben Chandhok, State Government Affairs Director, Biotechnology Innovation Organization **opposes** the definition of “340B Covered Entity” in SB 355 as it codifies contract pharmacies, a part of the program that has led to inappropriate growth, is not included in the federal statute, and is subject to pending litigation.

The Connecticut Association of Health Plans respectfully urges **opposition** to SB 355, which, as it stands today, would immediately result in increased costs to commercial consumers running contrary to the collective objective to make and keep health care coverage affordable in the state.

David Godbout **opposes** the bill.

**Reported by: Daniil Toropov**

**Date: 3/24/2022**